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No. 84-1942

In the Supreme Court of the United States

OCTOBER TERM, 1985

NATIONWIDE MUTUAL INSURANCE COMPANY,

Petitioner,

v.

HENRY GERRARD CLAY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ALABAMA

SUPPLEMENTAL BRIEF OF PETITIONER NATIONWIDE MUTUAL INSURANCE COMPANY

OF COUNSEL:

GEOFFREY C. HAZARD, JR.
Yale Law School
New Haven, Conn. 06520
Telephone: (203) 436-8253

*BERT S. NETTLES
FORREST S. LATTA
NETTLES, BARKER, JANECKY & COPELAND, P.C.
3311 First National Bank Bldg.
Post Office Box 2987
Mobile, Alabama 36652
Telephone: (205) 432-8786

Attorneys for Petitioner Nationwide Mutual Insurance Company

*Counsel of Record

April 23, 1986

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This is a supplemental brief under Rule 22.6 based on legal developments subsequent to the filing of the petition for certiorari herein.

In light of the Court's decision in *Aetna Life Ins. Co. v. Lavoie*, No. 84-1601 (April 22, 1986), petitioner Nationwide Mutual Insurance Company respectfully suggests that its petition for certiorari presents an important related question that warrants decision on its merits. However, the appropriate course could be to grant, vacate, and remand to the Supreme Court of Alabama for reconsideration in light of *Aetna Life Ins. Co. v. Lavoie*.

Particularly relevant to such a disposition are the matters addressed at pages 10-13 of the Court's opinion, and in the two concurring opinions.

It would be unjust to deny certiorari in the instant case, for the same disqualified judge (Justice Embry) participated in this case, as he had in the *Aetna* case, in resolving the very legal issues involved in his then pending personal lawsuit.

Respectfully submitted,

OF COUNSEL:

GEOFFREY C. HAZARD, JR.
Yale Law School
New Haven, Conn. 06520
Telephone: (203) 436-8253

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FORREST S. LATTA
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